



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,916	02/21/2007	Joseph Horta	207,327	8748
7590		11/15/2007		
Abelman Frayne & Schwab				
666 Third Avenue				
10th Floor				
New York, NY 10017-5621				
			EXAMINER	
			HALE, GLORIA M	
			ART UNIT	PAPER NUMBER
			3765	
			MAIL DATE	DELIVERY MODE
			11/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,916

Applicant(s)

HORTA ET AL.

Examiner

Gloria Hale

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12-23-05 Preliminary Amendment.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 23, 27-29, 31-34 and 36 is/are rejected.
- 7) ☐ Claim(s) 21, 24-26, 30 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3-16-07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the Abstract is over 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 and 22-36 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 9-296307A.

JP 09296307A discloses an adjustable underwire assembly (as seen in figures 1-5) for brassiere cups (2L and 2R) which comprises a first and a second generally u-shaped arcuate underwire (3L,3R) that is inserted in a generally U-shaped enclosure (not

Art Unit: 3765

numbered best seen in figure 2) along at least a portion of a first and second brassiere cup respectively; and a device 5(best seen in figures 2-4)that connects the first generally arcuate member 3L to the second generally arcuate member 3R including a means 6L,6R to selectively alter and maintain the relative angular orientation between the first and second generally arcuate members 3L,3R to facilitate adjustment of the brassiere cups 2IL,2R as desired. The connecting device includes the first and second elongated members 4L,4R attached to their respective arcuate member 3L,3R to permit adjustment of the angular relationship between the arcuate members and wherein the first and second elongated members 4L,4R are attached to their respective first and second generally U-shaped arcuate member as in claims 2 and 3. The adjustment device comprises a first generally circular 6L member having a first plurality of radially extending teeth 10L and a second generally circular member 6R with teeth 10R at least partially positioned within said first generally circular member within the teeth indentations. The device includes a second generally circular member 6R having a second plurality of radially outwardly extending teeth 10 Rwhich mesh with the first plurality of teeth 10L to retain the relative angular orientation between the first and second undewire members as in claim 4. The first generally circular member 6L is an outer ring-like member and the second generally circular member 6R is an inner ring-like member positioned with the first ring-like member so that they are relatively rotatable as claimed in claim 5. The teeth engage and disengage as claimed in claim 6 and include includes the relief groove and teeth as in claims 7-12 as in figures 2-5. The device includes a pin 7 with push-button at one end and a locking device 8 at the

opposite end that functions as claimed in claim 13. The element 8 is a means to maintain a predetermined relative angular orientation between the inner and outer ring-like members as in claim 14. The inner and outer members are locked by an elongated locking member 7 with locking device 8 as in claims 15-17. The first and second generally circularly shaped members include the plurality of teeth that extend from their annular surfaces and mate to each other as in claim 18 and the pin and device 8 mate and release the teeth from engagement as in claim 19. The device 7 is the elongated locking member and the teeth are the peaks which have corresponding apertures adjacent each tooth to receive the teeth. The circular members each have an aperture therein to receive the locking member 7 there through as in claim 20. The first and second generally circular members are positioned adjacent each other and are rotatable about a common axis and have the means- the teeth- to maintain a predetermined angular orientations between the two arcuate members as discussed above and as claimed in regard to claim 22. The circular members include the elongated locking member 7 that corresponds to apertures there within the circular members as claimed and as discussed above and as claimed in regard to claim 23. In regard to claim 28 the teeth assist in maintaining the predetermined angular orientation between the first and second members. IN regard to claim 29 the elongated pin 7 is the at least one elongated pin and the first and second members comprises apertures in their centers wherein the elongated pin is then placed within. Claims 31 and 32 are rejected for the same reasons as stated above n regard to claim 1. IN regard to claim 33 the elongated pin 7 further comprises the means to assist in maintaining a

Art Unit: 3765

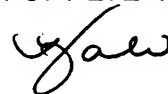
predetermined relative angular relation of the first and second members and also comprise means 8 to release the members as claimed in claim 34.

Claims 21, 24-26, 30 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the cited references, alone or in combination, disclose the two elongated locking members as claimed in claims 21, 24-26, 30 and 35.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Tues.-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



GLORIA M. HALE
PRIMARY EXAMINER
TECHNOLOGY CENTER 3700